

Written Testimony submitted to the House Agriculture Committee on 2-14-13

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EXHIBIT 4
DATE 2-14-13
HB 396

HOUSE BILL NO. 396
INTRODUCED BY M. LANG

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING APPROVAL OF THE BOARD OF COUNTY COMMISSIONERS BEFORE THE DEPARTMENTS OF LIVESTOCK OR FISH, WILDLIFE, AND PARKS MAY AUTHORIZE ANY RELEASE, TRANSPLANTATION, OR RELOCATION OF WILD BUFFALO OR BISON CERTIFIED AS BRUCELLOSIS-FREE INTO A MONTANA COUNTY; AMENDING SECTIONS 81-2-120 AND 87-1-216, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Mr. Chairman and members of the Committee,

The Montana Stockgrowers Association and Montana CattleWomen support HB 396. Our members do not support the relocation of bison in Montana but are committed to being engaged in discussions about relocation, wishing to ensure that provisions of MCA 87-1-216, especially in regards to disease control and containment measures, are followed.

HB 396 is NOT a bill to grant ultimate veto power to county commissioners over wildlife. This is a bill to allow local people, through their locally elected representatives, to have a real say in whether or not bison are relocated into their county to form a wild, free-ranging herd.

This bill DOES NOT affect the current management of bison in or naturally migrating out of Yellowstone National Park under the auspices of the Interagency Bison Management Plan, which includes the Montana Departments of Livestock and Fish, Wildlife and Parks. This bill DOES NOT affect sovereign tribes' ability to obtain or raise bison in whatever manner they see fit.

Some may argue that wildlife management is not the job of county commissioners. County commissioners are elected to make decisions in the best interest of their local communities and local economies. County commissioners have many concerns about land use in their counties and ensuring that the resources of the county are not unduly burdened. They have concerns about damage to public and private property and public safety. Our members feel that being involved in discussions about the relocation of bison to a county absolutely is the job of a county commissioner.

Some may argue that HB 396 would set a precedent for management of other wildlife species. Our members disagree. This bill is specifically applicable to bison, which have

never existed in a wild and free-ranging herd outside of Yellowstone National Park since before Montana even became a state in 1889.

Some may point to the Montana Supreme Court's 1940 decision in *State v. Rathbone* which held that "a property owner in this state must recognize the fact that there may be *some* injury to property or *inconvenience* from wild game from which there is no recourse" (italics added) (*State v. Rathbone*, 110 Mont. 225, 100 P.2d 86, 92-93 (1940)). Our members do not believe that this decision applies to wild, free-ranging bison. Our entire state—our infrastructure, our towns, our ranches and farms, our roads, our railroads—were built with bison absent from the landscape. Bison are not like other wildlife. They are not small animals that will hide or run away, especially if they are sourced from the bison quarantined coming out of Yellowstone National Park, or coming from just about any other park, where they have grown accustomed to humans.

Again, the main premise of this bill is to allow local people, through their locally elected representatives, to have a real say in whether or not bison are relocated into their county. Last year, when Fish, Wildlife and Parks began its scoping process to gauge the public's interest in establishing a wild, free-ranging herd of bison somewhere in Montana, they received nearly 23,000 comments from all over Montana, the U.S and even internationally. It is imperative that small rural communities that would be directly impacted by bison relocation have their voices heard loud and clear above the din of people who may never even come to Montana to see the bison, but just like the idea that they are there.

The bottom line is that if local people, through their county commissioners, support bison relocation, and FWP is able to follow the provisions set in the law for relocation, then relocation can occur. But on the flip side of that, if local people have significant concerns about bison relocation, they shouldn't have to bear that burden unwillingly. This bill ensures that local people have a say in whether or not, or how, bison are relocated into their area. We urge a do pass on HB 396. Thank you.

Background/Context:

In 2010, the Department of Fish, Wildlife and Parks began exploring establishing a herd of bison in Montana. The biggest impetus for this was to figure out something to do with bison from Yellowstone National Park that have graduated from the Quarantine Feasibility Study and have been declared free from the disease brucellosis. (The Department states this on their webpage "Future for Bison in Montana." <http://fwp.mt.gov/fishAndWildlife/management/bison/>) There were many graduates of this study and no one—zoos, tribes and others—seemed to want them or be able to take them. The Spotted Dog, Marias River, and Beartooth Wildlife Management Areas were discussed as options for placing the bison but no action was taken. So, in 2010, 86 bison from the study were transferred to Ted Turner's ranch near Bozeman. In March 2012, 63 bison from the quarantine study were transplanted to the Fort Peck Indian Reservation. Many individuals and groups argued that FWP was putting the cart before the horse by relocating these bison without having a statewide bison management plan.

In May 2012, FWP released a notice for public scoping on a statewide bison management plan environmental impact statement. They held eight public meetings that month across the state and accepted written comments through June 25, 2012 to evaluate opportunities for establishing a "hunnable population of free-ranging bison somewhere in Montana." This process yielded 22,928 comments from all across, Montana, the U.S. and even globally. The EIS process has not moved beyond this scoping effort at this point in time.

Relevant definitions:

MCA 87-1-216 defines "publicly owned wild buffalo or bison originating from Yellowstone national park as a species requiring disease control."

MCA 81-1-101. Definitions. Unless the context requires otherwise, in Title 81, the following definitions apply:

- (1) (a) "Bison" means domestic bison or feral bison.
- (b) The term does not include:
 - (i) wild buffalo or wild bison; or
 - (ii) for the purposes of chapter 9, buffalo.

...

- (4) "Domestic bison" means a bison owned by a person.
- (5) "Feral bison" means a domestic bison or progeny of a domestic bison that has escaped or been released from captivity and is running at large and unrestrained on public or private land.
- (6) "Wild buffalo" or "wild bison" means a bison that has not been reduced to captivity and is not owned by a person.

EXHIBIT 6
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 HB 396

All Cattle & Calves and Beef Cows & Heifers That Have Calved Inventories, January 1, 2010-2012

County and District	All Cattle and Calves				Beef Cows and Heifers That Have Calved			
	2010	2011	2012	Rank	2010	2011	2012	Rank
NORTHWEST								
Deer Lodge	6,700	6,500	6,500	53	4,900	5,000	4,900	52
Flathead	13,400	13,200	13,200	51	6,000	6,100	6,000	51
Granite	22,500	22,000	22,000	42	14,900	15,000	14,700	41
Lake	44,000	43,000	43,000	28	26,500	27,000	26,500	27
Lincoln	2,800	2,700	2,700	55	1,800	1,900	1,800	55
Mineral	900	800	800	56	--	--	--	--
Missoula	8,200	8,000	8,000	52	4,800	4,900	4,700	53
Powell	44,000	43,000	43,000	28	--	--	--	--
Ravalli	37,000	36,000	36,000	34	15,200	15,300	15,000	40
Sanders	15,700	15,400	15,400	49	10,300	10,400	10,200	47
NORTH CENTRAL								
Blaine	85,000	83,000	83,000	6	52,000	52,000	52,000	4
Chouteau	47,000	46,000	46,000	26	27,500	28,000	27,500	23
Glacier	48,500	47,500	47,500	24	31,500	31,500	31,000	19
Hill	25,500	25,000	25,000	39	--	--	--	--
Liberty	14,900	14,500	14,500	50	8,600	8,700	8,500	50
Phillips	87,000	85,000	85,000	5	56,000	56,000	56,000	3
Pondera	31,000	30,500	30,500	37	18,500	18,600	18,400	36
Teton	56,000	55,000	55,000	18	32,500	32,500	32,000	16
Toole	16,200	15,800	15,800	48	10,100	10,100	10,000	48
NORTHEAST								
Daniels	20,000	19,600	19,600	46	--	--	--	--
Dawson	50,000	49,000	49,000	21	30,500	31,000	30,500	21
Garfield	73,000	72,000	72,000	12	45,000	45,000	44,500	7
McCone	32,500	31,500	31,500	35	24,500	24,500	24,000	28
Richland	65,000	63,000	63,000	15	--	--	--	--
Roosevelt	38,000	37,500	37,500	32	24,000	24,500	24,000	28
Sheridan	25,000	24,500	24,500	40	15,900	16,000	15,800	39
Valley	63,000	61,000	61,000	16	43,000	43,500	43,000	9
CENTRAL								
Broadwater	21,500	21,000	21,000	43	--	--	--	--
Cascade	77,000	75,000	75,000	9	40,500	40,500	40,000	11
Fergus	105,000	105,000	105,000	2	74,000	75,000	74,000	1
Golden Valley	19,700	19,200	19,200	47	--	--	--	--
Judith Basin	70,000	69,000	69,000	14	--	--	--	--
Lewis & Clark	49,000	48,000	48,000	23	--	--	--	--
Meagher	49,500	48,500	48,500	22	--	--	--	--
Musselshell	47,000	46,000	46,000	26	27,500	27,500	27,500	23
Petroleum	28,000	27,500	27,500	38	16,600	16,700	16,500	38
Wheatland	37,500	36,500	36,500	33	21,500	21,500	21,500	32
SOUTHWEST								
Beaverhead	110,000	110,000	110,000	1	73,000	73,000	72,000	2
Gallatin	52,000	51,000	51,000	20	21,000	21,000	20,500	34
Jefferson	21,000	20,500	20,500	44	--	--	--	--
Madison	75,000	74,000	74,000	11	43,000	43,500	42,500	10
Silver Bow	5,000	4,900	4,900	54	3,900	4,100	4,000	54
SOUTH CENTRAL								
Big Horn	89,000	87,000	87,000	3	49,000	49,500	49,000	5
Carbon	61,000	60,000	60,000	17	29,500	30,000	29,500	22
Park	42,000	41,000	41,000	30	23,500	23,500	23,000	30
Stillwater	48,000	47,000	47,000	25	--	--	--	--
Sweetgrass	39,000	38,000	38,000	31	22,500	22,500	22,500	31
Treasure	25,000	24,500	24,500	40	12,100	12,200	12,000	45
Yellowstone	88,000	86,000	86,000	4	32,000	32,500	32,000	16
SOUTHEAST								
Carter	73,000	72,000	72,000	12	39,500	40,000	39,500	12
Custer	76,000	75,000	75,000	9	37,500	37,500	37,000	13
Fallon	53,000	52,000	52,000	19	--	--	--	--
Powder River	83,000	81,000	81,000	7	44,000	44,500	44,000	8
Prairie	32,500	31,500	31,500	35	20,000	20,500	20,000	35
Rosebud	80,000	78,000	78,000	8	--	--	--	--
Wibaux	20,500	19,900	19,900	45	11,900	12,000	11,800	46
OTHER COUNTIES	--	--	--		318,500	321,000	316,200	
MONTANA	2,550,000	2,500,000	2,500,000		1,465,000	1,476,000	1,456,000	

-- Counties with no head or counties that are combined into "other" counties to avoid disclosure of individual information.